

Regular Session, 2009

HOUSE BILL NO. 773

BY REPRESENTATIVE BURFORD AND SENATOR CHEEK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PHYSICAL THERAPISTS: Provides for the revision and restatement of the Physical Therapy Practice Act of Louisiana

1 AN ACT

2 To amend and reenact R.S. 36:259(E)(20), Chapter 29 of Title 37 of the Louisiana Revised
3 Statutes of 1950, to be comprised of R.S. 37:2401 through 2424 and R.S.
4 44:4.1(B)(21), relative to physical therapists; to provide for the creation of the
5 Physical Therapy Practice Act of Louisiana; to provide a short title; to provide for
6 purpose and intent; to provide for the composition of the Louisiana Physical Therapy
7 Board; to change the name of the physical therapy board; to provide for the
8 organization of board meetings and member compensation; to provide the powers,
9 duties, and limitations of the board; to provide for board and employee immunity
10 from personal liability; to provide for an exception to the public records law; to
11 provide definitions; to require licensure for certain practices; to establish the
12 qualifications for licensing physical therapists, foreign graduates, and physical
13 therapist assistants; to provide for licensing reciprocity; to provide for an application
14 for a license; to provide for examination of applicants for licensure; to provide for
15 the issuance of a license and updating contact information; to provide for emergency
16 exemptions; to provide for the renewal of a license; to provide for authority to
17 practice as a physical therapist or physical therapist assistant; to provide for the use
18 of titles and terms and restrictions; to provide for disciplinary actions; to provide for
19 violations and penalties; to provide for cease and desist orders, injunctions, and
20 attorney fees and costs associated with litigation; to provide for exemptions and

1 prohibitions; to provide for fees, receipts, and disbursements; and to provide for
2 related matters.

3 Be it enacted by the Legislature of Louisiana:

4 Section 1. R.S. 36:259(E)(20) is hereby amended and reenacted to read as follows:

5 §259. Transfer of agencies and functions to Department of Health and Hospitals

6 * * *

7 E. The following agencies, as defined in R.S. 36:3, are transferred to and
8 hereafter shall be within the Department of Health and Hospitals, as provided in R.S.
9 36:803:

10 * * *

11 (20) Louisiana ~~State Board of~~ Physical Therapy ~~Examiners~~ Board (R.S.
12 ~~37:2401-2418~~ 37:2401-2424)

13 * * *

14 Section 2. R.S. 44:4.1(B)(21) is hereby amended and reenacted to read as follows:

15 §4.1. Exceptions

16 * * *

17 B. The legislature further recognizes that there exist exceptions, exemptions,
18 and limitations to the laws pertaining to public records throughout the revised
19 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
20 limitations are hereby continued in effect by incorporation into this Chapter by
21 citation:

22 * * *

23 (21) R.S. 37:74, 86, 90, 147, 691, 763, 763.1, 781, 920.1, 969.1, 1277, 1278,
24 1285, 1326, 1395.1, 1400, 1518, 1745.15, 1747, 1806, 2156.1, 2406, 3481, 3507.1

25 * * *

26 Section 3. Section 4 of this Act amends and reenacts Chapter 29 of Title 37 in its
27 entirety. Due to the length of the Chapter, present law is not included as overstruck text.

1 Section 4. Chapter 29 of Title 37 of the Louisiana Revised Statutes of 1950, to be
2 comprised of R.S. 37:2401 through 2424, is hereby amended and reenacted to read as
3 follows:

4 CHAPTER 29. LOUISIANA PHYSICAL THERAPY PRACTICE ACT

5 §2401. Short title

6 This Chapter may be cited as the "Louisiana Physical Therapy Practice Act".

7 §2402. Purpose and intent

8 A. This Chapter is enacted for the purpose of protecting the public health,
9 safety, and welfare, and to provide for state administrative control, supervision,
10 licensing, and regulation of the practice of physical therapy in Louisiana.

11 B. It is the intent of this Chapter that only individuals who meet and maintain
12 prescribed standards of competence and conduct may engage in the practice of
13 physical therapy as authorized by this Chapter. This Chapter shall be liberally
14 construed to promote the public interest and to accomplish the purposes stated
15 herein.

16 §2403. Physical therapy board; composition

17 A. The Louisiana Physical Therapy Board, hereinafter referred to as the
18 "board", is hereby created within the Department of Health and Hospitals. The board
19 shall be domiciled in Lafayette Parish.

20 B. The board shall consist of seven members who shall be appointed by the
21 governor as follows:

22 (1) Two members shall be physical therapists who possess an unrestricted
23 license to practice physical therapy and who have been practicing in the state for no
24 less than three years.

25 (2) One member shall be a physical therapist who possesses an unrestricted
26 license to practice physical therapy and has been practicing in the state for no less
27 than three years and shall be appointed from a list of names submitted by the
28 Louisiana Hospital Association.

1 (3) Two members shall be physical therapists who possess an unrestricted
2 license to practice physical therapy and have been practicing in the state for no less
3 than three years and shall be appointed from a list of names submitted by the
4 Louisiana Physical Therapy Association.

5 (4) One member shall be a physical therapist assistant who possesses an
6 unrestricted license to assist in the practice of physical therapy as a physical therapist
7 assistant and who has been practicing in the state for no less than three years.

8 (5) One member shall be a physician who possesses an unrestricted license
9 to practice medicine in the state and who specializes in the practice of orthopedic
10 surgery or the practice of physiatry and shall be appointed from a list of names
11 submitted by the Louisiana State Medical Society.

12 C. The term of each board member shall be three years; however, initial
13 board appointments may be for less than three years in order to establish staggered
14 terms. Each appointment by the governor shall be submitted to the Senate for
15 confirmation.

16 D. Any vacancy occurring in the membership of the board shall be filled in
17 the same manner as the original appointment.

18 E. The governor may remove any member of the board for misconduct,
19 incompetence, or neglect of duty.

20 §2404. Board meetings; quorum; officers; compensation

21 A. The board shall meet at least semiannually, on a date and at a time and
22 place as it may designate, which shall include at least a meeting in January of each
23 year to elect a chairman and secretary-treasurer from its membership. All meetings
24 shall be held at the call of the chairman or at a call of a quorum of members upon not
25 less than ten days written notice, unless such notice is waived. The presence of any
26 member at any such meeting of the board shall constitute a waiver of notice thereof
27 by such member. Notice shall comply with the provisions of R.S. 42:7.

28 B. Any four members of the board shall constitute a quorum for any business
29 before the board.

1 C. Each board or committee member shall be entitled to a per diem of one
2 hundred fifty dollars for attendance at board meetings or other official board
3 approved business or activities, plus reimbursement of actual expenses reasonably
4 necessary for attending board or committee meetings or for representing the board
5 or participating in an official board approved activity. Board employees shall be
6 entitled to reimbursement of actual expenses reasonably necessary for participating
7 in or carrying out an official board approved activity.

8 §2405. Powers and duties of the board; limitation

9 A. The responsibility for enforcement of the provisions of this Chapter is
10 hereby vested in the board, which shall have all the powers, duties, and authority
11 specifically granted by or necessary for the enforcement of this Chapter, including:

12 (1) Establishing rules and procedures for granting licenses, and the
13 requirements therefor, to persons governed by this Chapter, including imposing
14 limitations as to the number of times an examination may be taken and the
15 conditions upon which reexamination may be had, which conditions shall be
16 determined by the board.

17 (2) Issuing licenses to those possessing the necessary qualifications therefor,
18 and taking appropriate administrative action to regulate the practice of physical
19 therapy in the state.

20 (3) Adopting a seal which shall be affixed to all licenses.

21 (4) Adopting rules necessary for the efficient operation of the board in
22 accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et
23 seq.

24 (5) Keeping a record of all meetings of the board.

25 (6) Publishing and making available a register of all persons licensed under
26 this Chapter, including the name and current address of each licensee.

27 (7) Updating its records annually.

28 (8) Establishing by rule the standards of practice.

1 (9) Reporting annually to the governor and to the presiding officer of each
2 house of the legislature on the condition of the practice of physical therapy in the
3 state, making recommendations for improvement of the practice of physical therapy
4 or the operation of the board, and submitting a record of the proceedings of the board
5 during the year, together with the names of all physical therapists and physical
6 therapist assistants to whom the board issued licenses during the year.

7 B. The board may:

8 (1) Authorize any member of the board to make any affidavit necessary for
9 the issuance of any injunction or other legal process authorized under this Chapter.

10 (2) Employ counsel to carry out the provisions of this Chapter, if the fees of
11 the counsel and the costs of all proceedings, except criminal prosecutions, are paid
12 by the board out of its own funds.

13 (3) Employ inspectors, special agents, and investigators.

14 (4) Issue subpoenas to require attendance, testimony, and the production of
15 documents to enforce the laws and rules relative to the practice of physical therapy
16 and to secure evidence of violations thereof.

17 (5) Employ an executive director and necessary clerical assistance to carry
18 out the administrative work of the board, fix the compensation thereof, and incur
19 other necessary expenses.

20 (6) Administer oaths in the taking of testimony upon any matters
21 appertaining to the duties of the board.

22 (7) Establish requirements for continuing education by licensees and
23 continuing education course review and approval as the board deems appropriate.

24 (8) Seek injunctive relief to prohibit any person from practicing physical
25 therapy as defined in this Chapter without being licensed as provided herein.

26 (9) Issue cease and desist orders to licensees and other persons or entities
27 who are engaged in any activity, conduct, or practice constituting a violation of any
28 provision of this Chapter or board rule. As to licensees, in addition to the injunctive

1 relief provided for in this Chapter, the failure to comply with a cease and desist order
2 may also be made the basis of disciplinary action.

3 (10) Conduct disciplinary proceedings pursuant to the provisions of the
4 Administrative Procedure Act and impose sanctions on the practice of licensees who
5 have violated this Chapter, the rules of the board, or standards of practice. Sanctions
6 may be imposed by means of voluntary consent orders or by decisions of the board.

7 (11) Require that all costs of board proceedings relating to a specific
8 disciplinary case, including the members' per diem and expenses, the cost of
9 investigators, stenographers, attorney fees, and other reasonably associated costs be
10 reimbursed to the board as a part of a consent order or board decision in that
11 proceeding.

12 (12) Adopt by rule a Patients' Bill of Rights.

13 (13) Appoint licensees or members of the public as Advisory Committee
14 members or to other committees which may be deemed useful in meeting the
15 responsibilities of the board.

16 (14) Adopt by reference all or part of the following codes, guides, and
17 standards of the American Physical Therapy Association: Code of Ethics, Guide for
18 Professional Conduct, Standards of Ethical Conduct for the Physical Therapist
19 Assistant, and Guide for Conduct of the Physical Therapist Assistant, except when
20 such are in conflict with this Chapter or the rules of the board.

21 C. The board shall not have authority to expand the practice of physical
22 therapy.

23 §2406. Immunity from personal liability; boards and others; confidentiality

24 A. There shall be no liability on the part of and no action for damages
25 against:

26 (1) Any member of the board, its agents, employees, attorneys, or any
27 member of a committee appointed or designated by the board, for any action
28 undertaken or performed by such person within the scope of the duties, powers, and

1 functions of the board or such committee when such person is acting without malice
2 and in the reasonable belief that the action taken by him is warranted.

3 (2) Any person or health care entity providing information or reports to the
4 board, its agents or employees, or to a committee appointed or designated by the
5 board, without malice and in the reasonable belief that such information is accurate,
6 including information or reports required by the provisions of R.S. 37:1745.14. Such
7 immunity from liability shall additionally be in accordance with the provisions of
8 R.S. 37:1745.16.

9 B. Information or reports concerning or relating to improper conduct by or
10 the impairment of a licensed physical therapist or physical therapist assistant
11 provided to the board or gathered by the board through investigation, including in
12 compliance with the provisions of R.S. 37:1745.14, shall be, in accordance with the
13 provisions of R.S. 37:1745.15, confidential.

14 §2407. Practice of physical therapy defined

15 A. When used in this Chapter, the following words and phrases shall have
16 the following meaning, unless the context clearly indicates otherwise:

17 (1) "Initial physical therapy evaluation" means the physical therapy
18 assessment and resulting interpretation of a patient's condition through use of patient
19 history, signs, symptoms, objective tests, or measurements to determine
20 neuromusculoskeletal and biomechanical dysfunctions to determine the need for
21 physical therapy. The conclusions of such initial physical therapy evaluation may
22 be reported to the patient and may be used to establish treatment goals. The results
23 of an initial physical therapy evaluation or physical therapy consultation shall be
24 reported to the referring or treating physician, dentist, chiropractor, or podiatrist.

25 (2) "Physical therapist" includes equally physiotherapist, physical therapist,
26 and P.T. and is a person who is a graduate of an accredited school of physical
27 therapy, which school, at the time of graduation was approved by the Commission
28 on Accreditation in Physical Therapy Education or the board and who practices
29 physical therapy as defined in this Chapter.

1 (3) "Physical therapist assistant" includes equally physical therapist assistant,
2 physiotherapist assistant, and P.T.A., and is a person who is a graduate of an
3 accredited school of physical therapist assisting, which school, at the time of
4 graduation, was approved by the Commission on Accreditation in Physical Therapy
5 Education or the board. A physical therapist assistant assists in the practice of
6 physical therapy in accordance with the provisions of this Chapter, and works under
7 the supervision of a physical therapist by performing such patient-related activities
8 assigned by a physical therapist which are commensurate with the physical therapist
9 assistant's education, training, and experience.

10 (4) "Physical therapy", noun and adjective, means equally physiotherapy and
11 physical therapy.

12 (5) "Practice of physical therapy" is the health care profession practiced by
13 a physical therapist licensed under this Chapter and means the holding out of one's
14 self to the public as a physical therapist and as being engaged in the business of, or
15 the actual engagement in, the evaluation and treatment of any physical or medical
16 condition to restore normal function of the neuromuscular and skeletal system, to
17 relieve pain, or to prevent disability by use of physical or mechanical means,
18 including therapeutic exercise, mobilization, passive manipulation, therapeutic
19 modalities, and activities or devices for preventative, therapeutic, or medical
20 purposes, and further shall include physical therapy evaluation, treatment planning,
21 instruction, consultative services, and the supervision of physical therapy supportive
22 personnel, including physical therapist assistants.

23 B. As used in this Chapter, "physical therapy" does not include the use of
24 roentgen rays and radium, isotopes, and ionizing radiation for diagnostic and
25 therapeutic purposes.

26 C. In seeking and receiving reimbursement for services, an initial physical
27 therapy evaluation as defined in this Chapter shall be considered a physical therapy
28 diagnosis and shall not constitute the practice of medicine.

1 D. Words used in one gender apply also to the other, except as otherwise
2 clearly indicated by the context.

3 §2408. License required; limitations

4 A. No person shall practice, or in any way hold himself out, or designate
5 himself, as a physical therapist or a physical therapist assistant unless licensed by the
6 board.

7 B. A person employed as a physical therapist or a physical therapist assistant
8 by the United States government, or any department, agency, or bureau thereof, shall
9 not be required to obtain a license under the provisions of this Chapter. However,
10 such person may engage in the practice of physical therapy outside the course and
11 scope of such federal employment only after obtaining a license in accordance with
12 this Chapter.

13 C. A license issued pursuant to this Chapter does not authorize the diagnosis
14 of disease.

15 §2409. Qualifications for license; physical therapists

16 To qualify for a license as a physical therapist, an applicant shall:

17 (1) Be at least twenty-one years of age.

18 (2) Be a citizen of the United States or have obtained legal authority to work
19 in the United States, and have proper documentation evidencing this fact.

20 (3) Be of good moral character.

21 (4) Have paid all fees required by this Chapter.

22 (5) Have graduated from a school of physical therapy, which school, at the
23 time of such graduation, was approved by the Commission on Accreditation in
24 Physical Therapy Education or the board.

25 (6) Pass an examination to the satisfaction of the board as provided for in

26 R.S. 37:2414.

1 §2410. Qualifications for license; foreign graduates

2 A graduate of a school of physical therapy outside of the United States may
3 qualify for a license as a physical therapist upon compliance with the provisions of
4 R.S. 37:2409(1), (2), (3), and (4), as well as with the following provisions:

5 (1) Presents in person his original diploma or facsimile, with English
6 translation, from the physical therapy school from which he was graduated, together
7 with a letter of recommendation from the dean or any other senior administrator of
8 that school.

9 (2) Provides indisputable proof of identity as specified by the board and a
10 valid social security number.

11 (3) Presents proof of certification or licensing as a physical therapist in the
12 country where he completed his education.

13 (4) Demonstrates in a personal interview his ability to read, write, speak, and
14 understand English fluently.

15 (5) Obtains from the board a provisional license to engage in supervised
16 clinical practice under the direction and supervision of a physical therapist licensed
17 under this Chapter. The period of supervised clinical practice shall be for at least six
18 months but not more than eighteen months, based on full-time employment, except
19 that the board, in its discretion, may accept part-time employment during the periods
20 of time set forth above as compliance with the requirements for supervised clinical
21 practice.

22 (6) Presents written evidence satisfactory to the board that he has completed
23 the required period of supervised clinical practice, that he is competent to practice
24 physical therapy, and that he has passed the examination as provided for in R.S.
25 37:2414.

26 §2411. Qualifications for license; physical therapist assistant

27 To be qualified for a license as a physical therapist assistant, an applicant
28 shall:

29 (1) Be at least nineteen years of age.

1 (2) Be of good moral character.

2 (3) Have paid all fees required by this Chapter.

3 (4) Have graduated from an accredited school of physical therapist assisting,
4 which school, at the time of such graduation, was approved by the Commission on
5 Accreditation in Physical Therapy Education or the board. However, the board shall
6 not require an applicant to have completed a course of training in excess of that
7 required for an associate degree.

8 (5) Pass an examination to the satisfaction of the board as provided for in
9 R.S. 37:2414.

10 §2412. License reciprocity

11 In its discretion, the board may waive examination, and may license an
12 applicant who is licensed and in good standing under the laws of another state,
13 territory, or district, if the requirements for licensing of physical therapists or
14 physical therapist assistants were, at the date of licensing therein, substantially equal
15 to the requirements then or subsequently in force in Louisiana, and if the state,
16 territory, or district from whence the applicant comes accords a similar licensing
17 privilege without examination to licensees under this Chapter.

18 §2413. Application for license

19 A. An applicant for a license as a physical therapist or a physical therapist
20 assistant shall file a written application on forms provided by the board, together
21 with the required license fee. In addition to meeting all other application
22 requirements provided by this Chapter or board rules the applicant shall present
23 evidence satisfactory to the board of his qualifications as required under this Chapter.

24 B. In order to determine an applicant's suitability for licensing, the board
25 may require applicants for initial licensure to furnish a full set of fingerprints to
26 facilitate a criminal background investigation. The board shall submit it to the
27 Federal Bureau of Investigation for a national criminal history background check.
28 The Louisiana State Police shall report the result of the criminal history background

1 check to the board which may use that information to determine the applicant's moral
2 character and suitability for licensing.

3 C. In addition to the fees authorized by this Chapter, the board may require
4 the applicant to reimburse the board or the law enforcement agency for the expense
5 of fingerprinting and facilitating the criminal background check.

6 §2414. Examination

7 The board shall provide for the examination of applicants for licensing as
8 physical therapists or physical therapist assistants under such terms and conditions
9 as it may determine. The examination shall test the applicant's knowledge of such
10 subjects as the board may deem useful in determining the applicant's fitness to
11 practice physical therapy and may include demonstrations and written and oral tests.

12 §2415. Issuance of license; updating contact information

13 A. If an applicant meets the requirements of this Chapter, the board shall
14 issue the applicant a license to practice physical therapy.

15 B. Each licensee is responsible for reporting a name change and changes in
16 business and home address, telephone numbers, and e-mail address to the board
17 within thirty days of such change.

18 §2416. Emergency Exemptions

19 No license is required by this Chapter under the following circumstances:

20 (1) A physical therapist who is licensed in a jurisdiction of the United States
21 and who enters this state to provide physical therapy during a declared local, state,
22 or national disaster or emergency. This exemption applies for no longer than sixty
23 days following the declaration of the emergency. In order to be eligible for this
24 exemption the physical therapist shall notify the board of his intent to practice within
25 the state.

26 (2) A physical therapist licensed in a jurisdiction of the United States who
27 is forced to leave his residence or place of employment due to a declared local, state,
28 or national disaster or emergency and as a result of such displacement seeks to
29 practice physical therapy. This exemption applies for no more than sixty days

1 following the declaration of the emergency. In order to be eligible for this
2 exemption the physical therapist shall notify the board of his intent to practice within
3 the state.

4 (3) A physical therapist assistant who is licensed in a jurisdiction of the
5 United States and is assisting a physical therapist engaged specifically in activities
6 related to Paragraphs (1) and (2) of this Subsection.

7 §2417. License renewal

8 A. A license issued under the provisions of this Chapter shall be renewed by
9 its holder in accordance with the rules of the board.

10 B. Any license not renewed in accordance with the rules of the board shall
11 automatically expire at the end of its term, after which the licensee shall not practice
12 in Louisiana.

13 C. An expired license may be reinstated upon application to the board by the
14 licensee with a satisfactory explanation for the failure to renew and the payment of
15 both the renewal fee and reinstatement fee. The denial of such application is subject
16 to review by the courts.

17 §2418. Authority to practice as a physical therapist or physical therapist assistant

18 A. A physical therapist or physical therapist assistant licensed in Louisiana
19 is authorized to practice physical therapy as defined in this Chapter. A physical
20 therapist is responsible for managing all aspects of the physical therapy care of each
21 patient.

22 B. Without prescription or referral, a physical therapist may perform an
23 initial evaluation or consultation of a screening nature to determine the need for
24 physical therapy and may perform physical therapy or other services provided in
25 Subsection C of this Section. However, implementation of physical therapy
26 treatment shall otherwise be based on the prescription or referral of a person licensed
27 to practice medicine, surgery, dentistry, podiatry, or chiropractic.

1 C. Except as to an initial evaluation or consultation, as provided in
2 Subsection B of this Section, physical therapy services may be performed without
3 a prescription or by referral only under the following circumstances:

4 (1) To a child with a diagnosed developmental disability pursuant to the
5 child's plan of care.

6 (2) To a patient of a home health care agency pursuant to the patient's plan
7 of care.

8 (3) To a patient in a nursing home pursuant to the patient's plan of care.

9 (4) Related to conditioning or to providing education or activities in a
10 wellness setting for the purpose of injury prevention, reduction of stress, or
11 promotion of fitness.

12 (5) To an individual for a previously diagnosed condition or conditions for
13 which physical therapy services are appropriate after informing the health care
14 provider rendering the diagnosis. The diagnosis shall have been made within the
15 previous ninety days. The physical therapist shall provide the health care provider
16 who rendered such diagnosis with a plan of care for physical therapy services within
17 the first fifteen days of physical therapy intervention.

18 D. Nothing in this Chapter shall be construed to create liability of any kind
19 for the health care provider rendering the diagnosis pursuant to Paragraph (C)(5) of
20 this Section for a condition, illness, or injury that manifested itself after such
21 diagnosis or for any alleged damages as a result of physical therapy services
22 performed without a prescription or referral from a person licensed to practice
23 medicine, surgery, dentistry, podiatry, or chiropractic.

24 E. Physical therapy services performed without a prescription or referral
25 from a person licensed to practice medicine, surgery, dentistry, podiatry, or
26 chiropractic shall not be construed to mandate coverage for physical therapy services
27 under any health care plan, insurance policy, or workers' compensation plan or
28 circumvent any requirement for preauthorization of services in accordance with any
29 health care plan, insurance policy, or workers' compensation plan.

1 F.(1) A person licensed under this Chapter as a physical therapist assistant
2 shall only perform treatments under the direction and supervision of a licensed
3 physical therapist. The duties assigned to the physical therapist assistant shall be
4 commensurate with the physical therapist assistant's education, training, and
5 experience.

6 (2) A physical therapist assistant's duties shall not include interpretation or
7 implementation of referrals or prescriptions, performance of evaluations, or the
8 determination or major modification of treatment programs.

9 (3) A physical therapist assistant shall in no way hold himself out to be a
10 physical therapist and shall make known to patients his title as a licensed physical
11 therapist assistant.

12 §2419. Use of titles and terms; restrictions

13 A. The board shall determine by rule the appropriate use of professional
14 credentials by licensees.

15 B. No person or business entity, its employees, agents, or representatives
16 shall use in connection with that person's name or the name or activity of the
17 business, the words "physical therapy", "physical therapist", "physiotherapy",
18 "physiotherapist", "registered physical therapist", "licensed physical therapist",
19 "doctor of physical therapy", the letters "PT", "DPT", "LPT", "RPT", or any other
20 words, abbreviations, or insignia indicating or implying directly or indirectly that
21 physical therapy is provided or supplied, unless such services are provided by or
22 under the direction of a physical therapist licensed pursuant to this Chapter.

23 C. No person or business entity shall advertise or otherwise promote another
24 person as being a "physical therapist" or "physiotherapist" unless the individual so
25 advertised or promoted is licensed as a physical therapist under this Chapter. No
26 person or business entity shall offer, provide, or bill any other person for services
27 characterized as "physical therapy" or "physiotherapy" unless the individual
28 performing those services is licensed pursuant to this Chapter.

1 D. A physical therapist assistant shall use the letters "PTA" immediately
2 following his name to designate licensure under this Chapter.

3 E. No person shall use the title "physical therapist assistant", the letters
4 "PTA", or any other words, abbreviations, or insignia in connection with that
5 person's name to indicate or imply, directly or indirectly, that the person is a physical
6 therapist assistant unless the person is licensed as a physical therapist assistant
7 pursuant to this Chapter.

8 §2420. Disciplinary actions

9 A. After due notice and hearing, the board may refuse to license any
10 applicant, or may refuse to renew the license of any person, or may restrict, suspend,
11 or revoke any license upon proof that the person has:

12 (1) Practiced physical therapy in violation of the provisions of this Chapter,
13 the rules of the board, or standards of practice.

14 (2) Attempted to or obtained a license by fraud or misrepresentation.

15 (3) Committed repeated acts of negligence or incompetence in the practice
16 of physical therapy.

17 (4) Been convicted of a felony in the courts of any state, district, territory,
18 or country. Conviction, as used in this Paragraph, shall include a plea or verdict of
19 guilty, an admission or finding of guilt, or a plea of nolo contendere.

20 (5) Been habitually intemperate or abused controlled dangerous substances
21 as defined by federal or Louisiana law.

22 (6) Had his license to practice physical therapy revoked or suspended, or has
23 had other disciplinary action taken against him, or has had his application for a
24 license refused, revoked, or suspended by the authorities of another state, district,
25 territory, or country.

26 (7) Been found guilty of unprofessional conduct or sexual misconduct,
27 including but not limited to departure from, or failure to conform to, the minimal
28 standards of acceptable and prevailing physical therapy practice, in which
29 proceeding actual injury to a patient need not be established.

1 (8) Engaged directly or indirectly in the division, transferring, assigning,
2 rebating, or refunding of fees received for professional service with a referring
3 practitioner or any relative or business associate of that referring practitioner.
4 However, nothing in this Paragraph shall be construed as prohibiting the members
5 of any properly organized business entity recognized by law and comprised of
6 physical therapists from dividing that amount of fees received for professional
7 services among themselves as they determine by contract necessary to defray their
8 joint operating expenses.

9 B. Any action of the board taken under this Section shall be subject to notice
10 requirements and hearing, adjudication, and appeal proceedings in accordance with
11 the rules adopted by the board and the Administrative Procedure Act.

12 C. Refusal to grant a license for failure to pass the licensing examination
13 required by the board shall not require notice and a hearing.

14 §2421. Violations; penalties

15 A. No person shall:

16 (1) Sell or falsely obtain or furnish any physical therapy diploma or license,
17 or aid or abet therein.

18 (2) Practice physical therapy without a lawfully issued, current, and valid
19 license, except as otherwise provided in this Chapter.

20 (3) Use in connection with his name any designation tending to imply that
21 he is a licensed physical therapist or a physical therapist assistant unless duly
22 licensed to practice under the provisions of this Chapter.

23 B. Any person who, or legal entity which, commits or assists in the
24 commission of any violation listed in Subsection A of this Section, or any legal
25 entity which knowingly employs a person who engages in, or which legal entity
26 otherwise facilitates or assists in the unlicensed practice of physical therapy shall be
27 guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than
28 one hundred dollars nor more than five hundred dollars, or imprisoned for not less
29 than thirty days nor more than six months, or both, and, in addition, a board licensee

1 may have his license restricted, suspended, or revoked by the board. Each violation
2 shall constitute a separate offense, and, for such additional violations, at the
3 discretion of the court, such person or legal entity may be subject to a fine of not less
4 than five hundred dollars or imprisonment of not less than six months, or both.

5 §2422. Cease and desist orders; injunction; attorney fees; costs

6 A. In addition to or in lieu of the criminal penalties or administrative
7 remedies or sanctions provided in this Chapter or board rule, the board may issue an
8 order to any licensee or other person or entity engaged in any activity, conduct, or
9 practice constituting a violation of any provision of this Chapter or board rule, other
10 than a person holding a license as a health care provider from another Louisiana
11 licensing board, directing such person or entity to forthwith cease and desist from
12 such activity, conduct, or practice. Such order shall be issued in the name of the
13 state of Louisiana, under the official seal of the board. With regard to a person
14 licensed as a health care provider by another Louisiana licensing board, notification
15 of suspected violations of this Chapter or of board rules shall be sent to the director
16 of the board which issued a license to that person for review and response to the
17 Louisiana Physical Therapy Board from that licensing board.

18 B. If the person or entity to whom the board directs a cease and desist order
19 does not cease and desist the prohibited activity, conduct, or practice within three
20 business days from receipt of such cease and desist order, the board, through its
21 proper officer or agent, may seek and cause to issue in any court of competent
22 jurisdiction and venue a writ of injunction, including a temporary restraining order,
23 enjoining any such person or entity from engaging in the proscribed activity,
24 conduct, or practice.

25 C. In a suit for an injunction, the board may demand of the defendant
26 reasonable attorney fees, associated investigative and administrative expenses, and
27 the costs of court. The judgment for attorney fees, expenses, and costs may be
28 rendered in the same judgment in which the injunction is made absolute.

1 D.(1) Upon proper showing by the board that such person or entity has
2 engaged in any activity, conduct, or practice prohibited by this Chapter or board rule,
3 the court shall issue a temporary restraining order enjoining the person or entity from
4 engaging in such unlawful activity, conduct, or practice pending the hearing on a
5 preliminary injunction, and, in due course, a permanent injunction shall be issued
6 after a hearing, commanding the cessation of the unlawful activity, conduct, or
7 practice complained of, all without the necessity of the board having to give bond as
8 ordinarily required in such cases.

9 (2) A temporary restraining order, preliminary injunction, or permanent
10 injunction issued pursuant to this Section shall not be subject to being released upon
11 bond.

12 E. The trial of the proceeding for injunction shall be summary and by the
13 judge without a jury.

14 §2423. Exemptions; prohibitions

15 A. This Chapter does not restrict a person licensed under any other law of
16 this state from engaging in the profession or practice for which that person is
17 licensed if that person does not represent, imply, or claim that he is a physical
18 therapist or a provider of physical therapy.

19 B. A person who is not licensed as a physical therapist or a physical therapist
20 assistant in accordance with this Chapter may be employed in a hospital, institution,
21 clinic, physician's office, or athletic training room to administer treatment under the
22 direction and supervision of a licensed physician; however, the treatment
23 administered shall not be identified as physical therapy, and further provided that
24 such person administering such treatment shall not hold himself out, nor be held out
25 by others as a physical therapist or physical therapist assistant.

26 C. No provision in this Chapter shall preclude either physical therapists or
27 other health care providers from billing for or being reimbursed for physical
28 medicine procedures, therapy treatments, or physical modalities which they are
29 licensed to perform and which fall within their respective scope of practice.

1 D. Physical therapists may not profess to provide "spinal manipulation" or
 2 "spinal adjustment" or use these terms for advertising purposes. However, this
 3 Chapter shall preclude other health care providers from professing the practice of
 4 physical therapy and from the use of the terms "physical therapy", "P.T.", or
 5 "physiotherapy" for advertising purposes unless licensed under this Chapter.

6 §2424. Fees; receipts and disbursements

7 A. The board may establish and collect fees, which shall be deposited into
 8 the treasury of the board. The fees shall be established by rule adopted in accordance
 9 with the Administrative Procedure Act, R.S. 49:950 et seq., and shall not exceed the
 10 schedule provided for in Subsection C of this Section.

11 B. All board expenses and compensation of board members and employees
 12 shall be paid out of board funds only, and shall not be charged to the state. The
 13 financial records of the board shall be subject to an annual audit.

14 C. Fees assessed by the board shall not exceed the following amounts:

15 <u>(1) Application fee</u>	<u>\$400.00</u>
16 <u>(2) Reinstatement fee</u>	<u>\$200.00</u>
17 <u>(3) Annual license renewal fee</u>	<u>\$200.00</u>
18 <u>(4) License verification fee</u>	<u>\$50.00</u>
19 <u>(5) Duplicate wall license fee</u>	<u>\$50.00</u>
20 <u>(6) Duplicate wallet license fee</u>	<u>\$50.00</u>

21 Section 5. This Act shall become effective on January 1, 2010.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Burford

HB No. 773

Abstract: Revises and restates the Physical Therapy Practice Act of Louisiana.

Present law (R.S. 36:259(E)(2)) provides for the placement of the La. State Board of Physical Therapy Examiners in the Dept. of Health and Hospitals. Proposed law retains present law but notes the change of the name to the La. Physical Therapy Board.

Present law (R.S. 44:4.1(B)(21)) authorizes the exception, exemptions, and limitations of public records relative to specific existing laws. Proposed law retains present law, and adds proposed law (R.S.37:2406) to the authorized exceptions.

Present law (R.S. 37:2417) provides a short title for the provisions of law regulating the practice of physical therapy and identifies it as the Physical Therapy Practice Act of La.

Proposed law (R.S. 37:2401) modifies present law by changing the name of the Physical Therapy Practice Act of La. to the La. Physical Therapy Practice Act.

Proposed law (R.S. 37:2402) provides that the purpose of the Physical Therapy Practice Act is the regulation of the practice of physical therapy in the state. Further, provides that its purposes are to promote public health, safety, and welfare. Also, to provide for state administrative control, supervision, and licensing of the practice of physical therapy.

Present law (R.S. 37:2401.1) creates the La. State Board of Physical Therapy Examiners within the Dept. of Health and Hospitals. Establishes the membership of the board as follows:

- (1) Three members who are physical therapists and have an unrestricted license to practice physical therapy and have been practicing in the state for no less than three years.
- (2) One member who is a physical therapist and has an unrestricted license to practice physical therapy and has been practicing in the state for no less than three years. This member is appointed from a list of names submitted by the La. Hospital Association.
- (3) One member who is a physician and has an unrestricted license to practice medicine in the state and specializes in the practice of orthopedic surgery or the practice of physiatry. This member is to be appointed from a list of names submitted by the La. State Medical Society.

Proposed law (R.S. 37:2403) modifies present law by changing the name of the board and the composition of the board by removing one of the three physical therapy members appointed by the governor. Also, adds the following members to the board:

- (1) Two members who are physical therapists and have an unrestricted license to practice physical therapy and have been practicing in the state for no less than three years. These members must be appointed from a list of names submitted by the La. Physical Therapy Association.
- (2) One member who is a physical therapist assistant who has an unrestricted license to practice physical therapy assisting and who has been practicing in the state for no less than three years.

Proposed law specifies that one member of the La. Physical Therapy Board in present law is a physical therapist assistant who possesses an unrestricted license to assist in the practice of physical therapy as a physical therapy assistant and who has been practicing in the state for no less than three years.

Present law (R.S. 37:2401.1) requires the governor to submit each board appointment to the Senate for confirmation. Establishes the term of members serving on the board. Two of the physical therapy members will serve a term of three years and the other two members will serve a term of two years. The physician member will serve a one year term. Vacancies in the membership of the board shall be filled in the same manner as the original appointment. Allows the governor to remove any member of the board for misconduct, incompetence, or neglect of duty.

Proposed law (R.S. 37:2403) modifies present law by establishing a three-year term for all members of the board. However, allows initial board appointments to be less than three years in order to establish staggered terms.

Present law (R.S. 37:2401.1) requires the La. State Board of Physical Therapy Examiners to meet at least semiannually on a date and at a time it designates. Requires all meetings to be held at the call of the chairman or on a quorum of members upon not less than 10 days written notice, unless waived. Further, indicates that the presence of any member at any such meeting of the board shall constitute a waiver of notice by such member. Requires notice to comply with the provisions of present law. Requires the board to meet in Jan. of each year to elect a chairman and a secretary-treasurer from its membership. Provides that three members of the board will constitute a quorum for any business before the board.

Authorizes a per diem of \$50 for members of the board, plus reimbursement for expenses at the rate provided for state employees to cover necessary expenses for attending board meetings and for representing the board in an official board-approved activity.

Proposed law (R.S. 37:2404) modifies present law by redesignating the provision requiring a meeting in Jan. of each year to elect a chairman and a secretary-treasurer from its membership. Increases the number of members necessary for a quorum to four.

Proposed law increases the amount of per diem from \$50 to \$100. Also, specifies that the per diem is for attendance at board meetings or other official board approved business or activities. Specifies that a board member's reimbursement is for actual expenses reasonably necessary for attending board or committee meetings or for participation in official board-approved activity. Adds a provision that indicates board employees are entitled to reimbursement for actual expenses reasonably necessary for participating in or carrying out an official board-approved activity.

Present law (R.S. 37:2401.2) establishes the powers and duties of the board. Provides that the board must do the following:

- (1) Examine all applications for the practice of physical therapy, issue licenses or permits to those possessing the necessary qualifications, and take appropriate administrative actions to regulate the practice of physical therapy in the state.
- (2) Adopt a seal which shall be affixed to all licenses.
- (3) Adopt rules necessary for the efficient operation of the board in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.
- (4) Keep a record of all meetings of the board.
- (5) Publish and make available a register of all persons licensed under this Chapter, including the name and current address of each licensee.
- (6) Update its record annually.
- (7) Establish by rule the standards of practice.
- (8) Report annually to the governor and to the presiding officer of each house of the legislature on the condition of the practice of physical therapy in the state, making recommendations for improvement of the practice of physical therapy or the operation of the board, and submitting a record of the proceedings of the board during the year, together with the names of all physical therapists and physical therapist assistants to whom the board issued licenses during the year.

Further, provides that the board may do the following:

- (1) Authorize any member of the board to make any affidavit necessary to the issuance of any injunction or other legal process authorized under present law.
- (2) Employ counsel to carry out the provisions of present law, if the fees of the counsel and the costs of all proceedings, except criminal prosecutions, are paid by the board out of its own funds.
- (3) Employ inspectors, special agents, and investigators.
- (4) Issue subpoenas to require attendance, testimony, and the production of documents to enforce the laws relative to the practice of physical therapy, and secure evidence of violations thereof.
- (5) Employ an executive director and necessary clerical assistance to carry out the administrative work of the board, fix the compensation thereof, and incur other necessary expenses.
- (6) Administer oaths in the taking of testimony upon any matters appertaining to the duties of the board.
- (7) Seek injunctive relief to prohibit any person from practicing physical therapy as defined in present law without being licensed.

Proposed law (R.S. 37:2405) modifies present law by specifying that the responsibility for enforcement of La. Physical Therapy Practice Act is vested in the board, which has all the powers, duties, and authority specifically granted by or necessary for such enforcement. Adds board authority to establish rules and procedures for granting licenses to persons governed by proposed law, including imposing limitations on the number of times an examination may be taken and the conditions upon which reexamination may be had, to be determined by the board. Also, clarifies a provision providing for the issuance of licenses to those possessing the necessary qualifications therefore, and taking appropriate administrative actions to regulate the practice of physical therapy in the state. Further, redesignates and clarifies the remaining provisions relative to specific powers and duties the board is required to exercise.

Proposed law also clarifies the powers and duties that the board is allowed to exercise. Adds the following provisions to the duties the board may perform:

- (1) Establish requirements for continuing education by licensees and continuing education course review and approval as the board deems appropriate.
- (2) Issue cease and desist orders to licensees and other persons or entities who are engaged in any activity, conduct, or practice constituting a violation of any provision of this Act or board rule. As to licensees, in addition to the injunctive relief provided for in proposed law, the failure to comply with a cease and desist order may also be made the basis of disciplinary action.
- (3) Conduct disciplinary proceedings pursuant to the provisions of the Administrative Procedure Act and impose sanctions on the practice of licensees who have violated proposed law, the rules of the board, or standards of practice. Sanctions may be imposed by means of voluntary consent orders or by decisions of the board.
- (4) Require that all costs of board proceedings relating to a specific disciplinary case, including the members' per diem and expenses, the cost of investigators, stenographers, attorney fees, and other reasonably associated costs be reimbursed to the board as a part of a consent order or board decision in that proceeding.
- (5) Adopt by rule a Patients' Bill of Rights.

- (6) Appoint licensees or members of the public as Advisory Committee members or to other committees which may be deemed useful in meeting the responsibilities of the board.
- (7) Adopt by reference all or part of the following codes, guides, and standards of the American Physical Therapy Association: Code of Ethics, Guide for Professional Conduct, Standards of Ethical Conduct for the Physical Therapist Assistant, and Guide for Conduct of the Physical Therapist Assistant, except when such are in conflict with proposed law or the rules of the board.

Proposed law reproduces a provision prohibiting the board from expanding the practice of physical therapy.

Present law (R.S. 37:2401) provides board immunity from damages associated with personal liability as follows:

- (1) Any member of the board, its agents, employees, or any member of a committee appointed or designated by the board, for any action undertaken or performed by such person within the scope of the duties, powers, and functions of the board or such committee when such person is acting without malice and in the reasonable belief that the action taken by him is warranted.
- (2) Any person providing information or reports to the board, its agents or employees, or to a committee appointed or designated by the board, without malice and in the reasonable belief that such information is accurate.

Proposed law (R.S. 37:2406) modifies present law by adding attorneys to the group of individuals who have immunity from personal liability. Also, adds a health care entity and its reports to the immunity provision in present law. Specifies that such immunity from liability must be in accordance with the "relief from liability for reporting" provisions of present law. Also, adds a new provision that provides that information or reports concerning or relating to improper conduct by or the impairment of a licensed physical therapist or physical therapist assistant provided to the board or gathered by the board through investigation, including in compliance with the provisions of present law, must be, in accordance with the provisions of present law, confidential.

Present law (R.S. 37:2401) provides a definition section. Indicates that the following words and phrases used in present law, must have the meaning ascribed to them hereunder, unless the context clearly indicates a different meaning:

- (1) (a) "Practice of physical therapy" is the health care profession practiced by a physical therapist licensed under this Chapter and means the holding out of one's self to the public as a physical therapist and as being engaged in the business of, or the actual engagement in, the evaluation and treatment of any physical or medical condition to restore normal function of the neuromuscular and skeletal system, to relieve pain, or to prevent disability by use of physical or mechanical means, including therapeutic exercise, mobilization, passive manipulation, therapeutic modalities, and activities or devices for preventative, therapeutic, or medical purposes, and further shall include physical therapy evaluation, treatment planning, instruction, consultative services, and the supervision of physical therapy supportive personnel, including physical therapist assistants.
- (b) The use of roentgen rays and radium, isotopes, and ionizing radiation for diagnostic and therapeutic purposes are not authorized under the terms "physical therapy" as used in present law, and a license issued pursuant to present law does not authorize the diagnosis of disease or treatment without the prescription or referral of a person licensed in this state to practice medicine, surgery, dentistry, or podiatry.

- (2) "Physical therapy", noun and adjective, means equally physiotherapy and physical therapy.
- (3) "Initial physical therapy evaluation" means the physical therapy assessment and resulting interpretation of a patient's condition through use of patient history, signs, symptoms, objective tests, or measurements to determine neuromusculoskeletal and biomechanical dysfunctions to determine the need for physical therapy. The conclusions of such initial physical therapy evaluation may be reported to the patient and may be used to establish treatment goals. The results of an initial physical therapy evaluation or physical therapy consultation shall be reported to the referring or treating physician, dentist, chiropractor, or podiatrist.
- (4) "Physical therapist" means equally physiotherapist, physical therapist, and P.T. and is a person who is a graduate of an accredited school of physical therapy, which school, at the time of graduation was approved by the Commission on Accreditation in Physical Therapy Education, board and who practices physical therapy as defined in this Chapter.
- (5) "Board" means the La. State Board of Physical Therapy Examiners.
- (6) Words importing the masculine gender may be applied to females.
- (7) "Physical therapist assistant" includes equally physical therapist assistant, physiotherapist assistant, physiotherapy assistant, and P.T.A., and is a person who is a graduate of an accredited school of physical therapist assisting, which school, at the time of graduation, was approved by the Commission on Accreditation in Physical Therapy Education or the board. A physical therapist assistant assists in the practice of physical therapy in accordance with the provisions of this Chapter, and works under the supervision of a physical therapist by performing such patient-related activities assigned by a physical therapist which are commensurate with the physical therapist assistant's education, training, and experience. "Physical therapy assistant" means equally physical therapy assistant, physiotherapist assistant, and physiotherapy assistant, and P.T.A. A physical therapy assistant's work cannot include the interpretation and implementation of referrals or prescriptions, the performance of evaluations, or the determination or major modification of treatment programs.

Proposed law (R.S. 37:2407) modifies present law by consolidating definitions of "physical therapist assistant". Deletes a provision that outlines the types of acts that cannot be performed by a physical therapist. Redesignates the provisions dealing with the prohibition against the use of roentgen rays and radium, isotopes, and ionizing radiation for diagnostic and therapeutic purposes. Deletes the definition explaining the meaning of the term "board". Adds a new provision that provides an "initial physical therapy evaluation" is considered a physical therapy diagnosis and does not constitute the practice of medicine. Modifies a gender provision by specifying that words used in one gender apply also to the other, except as otherwise clearly indicated by the context. Deletes "physiotherapy assistant" from the definition of "physical therapist assistant".

Present law (R.S. 37:2402) provides that no person shall practice, or in any way hold himself out, or designate himself, as a physical therapist or a physical therapist assistant unless duly licensed by the board. Further, excludes any person employed as a physical therapist or a physical therapist assistant by the U. S. government, or any department, agency, or bureau thereof, from licensure under the provisions of present law. However, to engage in the practice of physical therapy outside the course and scope of such federal employment, the person will be required to obtain a license in La.

Proposed law (R.S. 37:2408) modifies present law without substantive change. Specifies that a license issued pursuant to proposed law does not authorize the diagnosis of disease.

Present law (R.S. 37:2403) establishes the qualifications for licensure. Provides that an applicant must:

- (1) Be 21 years of age.
- (2) Be a citizen of the U.S. or have filed a declaration of intention to become a citizen of the U.S. (present certificate).
- (3) Be of good moral character.
- (4) Have paid all fees required by present law.
- (5) Have graduated from a school of physical therapy, which school, at the time of such graduation, was approved by the La. State Board of Physical Therapy Examiners.
- (6) Pass an examination to the satisfaction of the board as provided for in present law.

Proposed law (R.S. 37:2409) modifies present law by requiring an applicant to obtain legal authority to work in the U.S. and prove the same with proper documentation. Further, changes the La. State Board of Physical Therapy Examiners to the Commission on Accreditation in Physical Therapy Education or the board. Also, authorizes the board to establish approved schools of physical therapy.

Present law (R.S. 37:2403) provides that a graduate of a school of physical therapy outside of the U.S. qualifies for licensure if he: (1) is at least 21 years old, (2) is a citizen of the U.S. or has filed a declaration of intention to become a citizen of the U.S., and (3) is of good moral character. Additionally, the foreign graduate applicant is required to comply with the following:

- (1) Present in person his original diploma or facsimile, with English translation, from the physical therapy school from which he was graduated, together with a letter of recommendation from the dean or any other senior administrator of the physical therapy school from which applicant was graduated, which letter is authenticated by the U.S. Consul.
- (2) Provide indisputable identification.
- (3) Demonstrate in a personal interview his ability to read, write, speak, and understand English fluently.
- (4) Present proof of identity and proof of certification or licensure as a physical therapist in the country where he completed his education.
- (5) Obtain from the La. State Board of Physical Therapy Examiners a permit to engage in supervised clinical experience under the direction and supervision of a physical therapist licensed under present law. The period of supervised clinical experience has to be for at least six months but not more than 18 months, based on full-time employment. The board in its discretion, may accept part-time employment during the periods of time set forth above as complying with the requirements for supervised clinical experience.
- (6) Present written evidence satisfactory to the board that he has completed the required period of supervised clinical experience, that he is competent to practice physical therapy, and pass the examination as provided for in present law.
- (7) The board may waive the examination, provided for in present law in favor of an applicant who presents to the board a license and endorsement from another state if

the board finds that said license and endorsement were obtained on the basis of requirements and qualifications equivalent to those of the state of La.

Proposed law (R.S. 37:2410) modifies present law by specifying that the acceptable proof of identity is a social security card and any other form of identification approved by the board. Changes the word "provisional license" to "permit" and "clinical experience" to "clinical practice". Redesignates the provision requiring a person demonstrate his ability to communicate in English. Deletes a provision allowing the board to waive an examination for an applicant who presents to the board a license and endorsement from another state if it was on the basis of requirements and qualifications equivalent to those in La. Reproduces and clarifies present law.

Present law (R.S. 37:2403(C)) provides the qualifications for licensure as a physical therapist assistant. Provides that an applicant must:

- (1) Be at least 19 years of age.
- (2) Be of good moral character.
- (3) Have paid all fees required by present law.
- (4) Have graduated from an accredited school of physical therapist assisting, which school, at the time of such graduation, was approved by the American Physical Therapy Association or the La. State Board of Physical Therapy Examiners. The La. State Board of Physical Therapy Examiners must not, however, require an applicant to have completed a course of training in excess of that required for an associate degree.
- (5) Pass an examination to the satisfaction of the board as provided for in present law.

Further, provides that any person performing patient-related activities under the supervision of a duly licensed physical therapist on Aug. 21, 1992, is eligible for licensure as a physical therapist assistant, if he: (1) is at least 19 years of age, (2) is of good moral character, and (3) has paid all required fees. Additionally, requires compliance with the following provisions:

- (1) Has worked by assisting with patient care in a physical therapy setting in the state for a minimum of two years immediately preceding Aug. 21, 1992, under the supervision of a licensed physical therapist.
- (2) Obtains two references from physical therapists licensed in the state for a minimum of two years each.
- (3) Obtains an evaluation concerning certain competencies as defined in rules and regulations adopted by the board from a physical therapist licensed in the state for a minimum of five years.
- (4) Passes an examination approved by the board and to the satisfaction of the board as provided for in present law. The examination has to be passed not later than March 21, 1997.
 - (a) Those persons eligible and qualified who have not taken the examination at a prior date may sit for the examination for a maximum of three sittings at the regularly scheduled examinations.
 - (b) Those persons eligible and qualified who have previously taken but not passed the examination may retake the examination no more than twice by

March 21, 1997, but in no case shall a person be allowed to take the examination more than a total of three times.

Proposed law (R.S. 37:2411) redesignates and clarifies the reciprocity provision in present law. Deletes a provision relative to the requirements that must be filled for people performing patient-related activities under the supervision of a licensed physical therapist on Aug. 21, 1992. Also, deletes the requirement that such person obtain two references from a physical therapist licensed in the state for at least two years. Deletes provisions relative to requirements for a competency evaluation and the passage of a board approved examination no later than March 21, 1997. Deletes the examination retake provisions in present law.

Present law (R.S. 37:2405) authorizes the board to license as a physical therapist or physical therapist assistant, without examination, on payment of the prescribed fee, an applicant for licensure who is a physical therapist or physical therapist assistant licensed under the laws of another state, territory, commonwealth, or Washington, D.C., if the requirements for licensure of physical therapists or physical therapist assistants were at the date of licensure substantially equal to the requirements then or subsequently in force in this state and if the state, territory, commonwealth, or Washington, D.C., from whence the applicant comes, accords similar privilege of licensure without examination to holders of certificates as licensed physical therapists or physical therapist assistants under present law. Also, allows the issuance of a temporary license to practice until the permanent license is issued or the application for reciprocity is denied by the board. The physical therapist holding a temporary license issued in accordance with the provisions of present law may practice without supervision.

Proposed law retains the substance of present law.

Proposed law (R.S. 37:2412) redesignates and modifies a license reciprocity provision that allows the board to waive the examination requirement and license an applicant who is licensed and in good standing in another state if that state's requirements are equal to the requirements in La. and they have a similar reciprocity provision.

Present law (R.S. 37:2404) requires an applicant for licensure as a physical therapist or a physical therapist assistant to file a written application on forms provided by the board including the required license fee. Also, requires the applicant to present evidence of his qualifications to the satisfaction of the board. Authorizes the issuance of a temporary permit to a person qualified to take the examination for licensure under present law until the next examination meeting of the board. Allows a person who fails the examination for licensure to continue practicing under a temporary license until the next scheduled examination. Provides that if a person fails for a second time his temporary license will expire and it must be surrendered to the board. Only authorizes a person holding a temporary license to practice under the direction of a licensed physical therapist who must provide periodic supervision and instruction to ensure the safety and welfare of the patient. The supervision requirement is effective on and after Jan. 1, 1984.

Proposed law (R.S. 37:2413) modifies present law by clarifying the provision that requires an applicant to file a written application. Deletes provisions relative to issuance of a temporary permit and failure of examination. Adds a new provision that allows the board to conduct a criminal background check and acquire fingerprints from the La. State Police. Also, deletes the provision that allows a physical therapist or physical therapist assistant holding a temporary license to practice under the direction and supervision of a licensed physical therapist.

Present law (R.S. 37:2409) requires the board to provide an exam to be taken by applicants for licensure as physical therapists or physical therapist assistants. Requires the examination to test the applicant's knowledge of such subjects as the board deems useful in determining the applicant's fitness to practice physical therapy and may include demonstrations and

written and oral tests. Authorizes the board or committee to appoint three or more persons who are licensed to practice physical therapy in La. to assist in the preparation and administration of the examination of applicants under rules and regulations adopted by the board.

Proposed law (R.S. 37:2414) modifies present law by clarifying the examination required for licensing provisions. Deletes the authority of the board to appoint three or more licensed physical therapists to assist in the preparation and the administration of the examination of applicants.

Present law (R.S. 37:2411) authorizes the practice of physical therapy for applicants who meet licensing requirements.

Proposed law retains the substance of present law.

Proposed law (R.S. 37:2415) requires the board to issue a license to practice physical therapy to an applicant who meets the licensing requirements of proposed law. Also, requires each licensee to report a name change and changes in business and home address, telephone numbers, and e-mail address to the board within 30 days of such change.

Proposed law (R.S. 37:2416) authorizes a physical therapist who is licensed in a jurisdiction of the U.S. and who enters this state to provide physical therapy during a declared local, state, or national disaster or emergency to temporarily practice physical therapy without a La. license. Specifies that this exemption is authorized for up to 60 days following the declaration of the emergency. Requires the physical therapist to notify the board of his intent to practice within the state in order to be eligible for this temporary exemption from the state licensing provisions.

Also, authorizes a physical therapist licensed in a jurisdiction of the U.S. who is forced to leave his residence or place of employment due to a declared local, state, or national disaster or emergency and as a result of such displacement seeks to temporarily practice physical therapy without a La. license. Specifies that this exemption is authorized for up to 60 days following the declaration of the emergency. Requires the physical therapist to notify the board of his intent to practice within the state in order to be eligible for the temporary exemption.

Exempts a physical therapist assistant who is licensed in a jurisdiction of the U.S. and is assisting a physical therapist engaged specifically in activities related to proposed law from the licensing requirements in La.

Present law (R.S. 37:2407) requires the annual renewal of the license on or before Jan.1 of each year. Also, requires the licensee to provide proof of continuing education to the board when applying for license renewal. Further, provides that any license not renewed can be suspended by unanimous vote of the board. Such suspension is subject to review by the courts.

Proposed law (R.S. 37:2417) modifies present law by deleting the annual renewal requirement and instead authorizes the board to set rules for renewal. Deletes the continuing education requirement. Additionally, changes the suspension provision in present law by specifying that any license not renewed in accordance with the board rules must expire at the end of its term.

Redesignates and modifies a provision that authorizes the reinstatement of an expired license upon application to the board by the licensee with a satisfactory explanation for the failure to renew and the payment of both the renewal fee and reinstatement fee. Also, provides that the denial of such application is subject to review by the courts.

Present law (R.S. 37:2408) provides that a licensee who allows his license to lapse by failing to renew the license may be reinstated upon satisfactory explanation for the failure to renew and the payment of both the renewal fee for the current year and the reinstatement fee, which fees are provided in present law. Further, provides that a licensee who allows his license to lapse and fails to meet continuing education requirements, without a satisfactory explanation as determined by the board, may be required to take the licensing examination and pay the fees for relicensure and examination as required by the board's administrative regulations prior to relicensure.

Proposed law repeals this provision; however, reproduces it without substantial change.

Present law (R.S. 37:2410) authorizes a physical therapist licensed under present law to practice physical therapy. Authorizes a licensed physical therapist to perform an initial evaluation or consultation of a screening nature to determine the need for physical therapy, without referral or prescription, but implementation of physical therapy treatment to individuals for their specific condition or conditions must be based on the prescription or referral of a person licensed to practice medicine, surgery, dentistry, or podiatry.

Present law allows a person not licensed as a physical therapist or a physical therapist assistant to be employed in a hospital, institution, clinic, physician's office, or athletic training room to administer treatment under the direction and supervision of a licensed physician. However, the treatment administered must not be identified as physical therapy and the person administering the treatment must not represent himself as, nor be held by others, as a physical therapist or physical therapist assistant.

Present law provides that a licensed physical therapist assistant can only perform treatments under the direction and supervision of a licensed physical therapist. Further, provides that the duties assigned to the physical therapist assistant must be commensurate with the physical therapist assistant's education and training. Prohibits a physical therapist assistant from the interpretation or implementation of referrals or prescriptions, performance of evaluations, or the determination or major modification of treatment programs. Also, prohibits a physical therapist assistant from holding himself out to be a physical therapist and requires him to make known to patients his title as a licensed physical therapist assistant.

Present law prohibits a licensed physical therapist from performing physical therapy services without a prescription or referral from a person licensed to practice medicine, surgery, dentistry, podiatry, or chiropractic. However, he may perform physical therapy services without a prescription or referral under the following circumstances:

- (1) To children with a diagnosed developmental disability pursuant to the patient's plan of care.
- (2) As part of a home health care agency pursuant to the patient's plan of care.
- (3) To a patient in a nursing home pursuant to the patient's plan of care.
- (4) Related to conditioning or to providing education or activities in a wellness setting for the purpose of injury prevention, reduction of stress, or promotion of fitness.
- (5) To an individual for a previously diagnosed condition or conditions for which physical therapy services are appropriate after informing the health care provider rendering the diagnosis. The diagnosis shall have been made within the previous 90 days. The physical therapist shall provide the health care provider who rendered such diagnosis with a plan of care for physical therapy services within the first 15 days of physical therapy intervention.

Present law restricts liability against a health care provider rendering a diagnosis pursuant to present law for a condition, illness, or injury that manifested itself after such diagnosis or

for any alleged damages as a result of physical therapy services performed without a prescription or referral from a person licensed to practice medicine, surgery, dentistry, podiatry, or chiropractic.

Present law further, provides that physical therapy services performed without a prescription or referral from a person licensed to practice medicine, surgery, dentistry, podiatry, or chiropractic must not be construed to mandate coverage for physical therapy services under any health care plan, insurance policy, or workers' compensation or circumvent any requirement for pre-authorization of services in accordance with any health care plan, insurance policy, or workers' compensation.

Proposed law (R.S. 37:2418) modifies present law by clarifying that a licensed physical therapist or physical therapist assistant is authorized to practice physical therapy. Adds a new provision that requires a physical therapist to be responsible for managing all aspects of the physical therapy care of a patient. Specifies that treatment performed by a physical therapist may also be based on a referral from chiropractor.

Proposed law redesignates present law provisions regarding the enumerated authorized work settings. Redesignates the authority for a licensed physical therapist assistant to perform treatments under the direction and supervision of a licensed physical therapist provision. Redesignates the provision that provides that a physical therapist assistant is allowed to perform duties commensurate with his education and training without any substantive change. Redesignates the prohibition against the interpretation or implementation of referrals or prescriptions, performance of evaluations, or the determination or major modification of treatment programs without any substantive change. Redesignates the provision prohibiting a physical therapist assistant from holding himself out to be a physical therapist and requires him to make known to patients his title as a licensed physical therapist assistant without any substantive change. Deletes a redundant doctor referral procedure.

Proposed law (R.S. 37:2419) requires the board to determine by rule the appropriate use of professional credentials by licensees. Also, prohibits a person or business from using the following words in connection with their name or business activity: "physical therapy", "physical therapist", "physiotherapy", "physiotherapist", "registered physical therapist", "licensed physical therapist", "doctor of physical therapy", the letters "PT", "DPT", "LPT", or "RPT". Also, prohibits the use of any other words, abbreviations, or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied, unless such services are provided by or under the direction of a physical therapist licensed pursuant to proposed law.

Proposed law prohibits any person or business entity from advertising or promoting another person as being a "physical therapist" or "physiotherapist" unless the individual so advertised or promoted is licensed as a physical therapist in La. Also, prohibits any person or business entity from offering, providing, or billing any other person for services characterized as "physical therapy" or "physiotherapy" unless the individual performing those services is licensed.

Proposed law requires a physical therapist assistant to use the letters "PTA" immediately following his name to designate proper licensure. Prohibits any person from the use of the title "physical therapist assistant", the letters "PTA", or any other words, abbreviations, or insignia in connection with that person's name to indicate or imply, directly or indirectly, that the person is a physical therapist assistant unless the person is licensed as a physical therapist assistant pursuant to proposed law.

Present law (R.S. 37:2413) authorizes the board after due notice and hearing to refuse to license or renew the license of any applicant. Also, allows the board to suspend or revoke any license upon proof that the person:

- (1) Practices physical therapy in violation of the provisions of present law and any rules and regulations promulgated thereto in accordance with the Administrative Procedure Act.
- (2) Attempts to or obtains a license by fraud or misrepresentation.
- (3) Commits repeated occasions of negligence or incompetence in the practice of physical therapy.
- (4) Has been convicted of a felony in the courts of this state or any other state, territory, or country. Conviction, as used in present law, must include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere.
- (5) Is habitually intemperate or is addicted to the use of habit forming drugs.
- (6) Has had his license to practice physical therapy revoked or suspended, or has had other disciplinary action taken, or has had his application for licensure refused, revoked, or suspended by the proper authorities of another state, territory, or country.
- (7) Has been found guilty of unprofessional conduct. Unprofessional conduct includes departure from, or failure to conform to, the minimal standards of acceptable and prevailing physical therapy practice, in which proceeding actual injury to a patient need not be established.
- (8) Engages directly or indirectly in the division, transferring, assigning, rebating, or refunding of fees received for professional service with a referring practitioner or any relative or business associate of that referring practitioner. Nothing in present law should be construed as prohibiting the members of any regularly and properly organized business entity recognized by law and comprised of physical therapists from dividing that amount of fees received for professional services among themselves as they determine by contract necessary to defray their joint operating expenses.

Provides that any action of the board taken under present law is subject to notice requirements and hearing, adjudication, and appeal proceedings in accordance with the Administrative Procedure Act.

Proposed law (R.S. 37:2420) modifies present law by clarifying certain provisions. Adds a new provision that requires any rules adopted by the board to comply with notice requirements. Specifies that the abuse of a controlled dangerous substance and sexual misconduct constitute a violation that is subject to penalty. Adds a new provision that provides the refusal to grant a license for failure to pass the licensing examination does not require notice and a hearing.

Present law (R.S. 37:2415) provides that any person who violates a provision of present law is guilty of a misdemeanor and, upon conviction thereof, must be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not less than 30 days nor more than 90 days, or by both such fine and imprisonment. Such person is subject to either a fine of not less than \$500 or imprisonment of not less than six months, at the discretion of the court, for each additional offense.

Proposed law repeals this provision; however, reproduces it without substantial change.

Present law (R.S. 37:2414) establishes violations and provides that no person shall do any of the following:

- (1) Sell or falsely obtain or furnish any physical therapy diploma or license, or aid or abet therein.

- (2) Practice physical therapy without a lawfully issued, current and valid license, except as otherwise provided in present law.
- (3) Use in connection with his name any designation tending to imply that he is a licensed physical therapist or a physical therapist assistant unless duly licensed to practice under the provisions of present law.
- (4) Violate any provisions of present law.

Proposed law (R.S. 37:2421) adds a new provision that provides that any person who, or legal entity which, commits or assists in the commission of any of the enumerated violations, or any legal entity which knowingly employs a person who engages in, or which legal entity otherwise facilitates or assists in the unlicensed practice of physical therapy or physical therapy assisting, is guilty of a misdemeanor and, upon conviction thereof, will be fined not less than \$100 nor more than \$500, or imprisoned for not less than 30 days nor more than six months, or both, and, in addition, a board licensee may have his licensee restricted, suspended, or revoked by the board. Further, provides that each violation constitutes a separate offense, and, for such additional violations, at the discretion of the court, such person or legal entity may be subject to a fine of not less than \$500 or imprisonment of not less than six months, or both.

Present law (R.S. 37:2416) authorizes the board, through its proper officer, to cause to issue in any competent court a writ of injunction enjoining any person from practicing physical therapy, until such person obtains a La. license. Further, provides that this injunction is not subject to being released upon bond. Authorizes the board to demand that the defendant pay a penalty of not more than \$100, reasonable attorney fees, and the costs of court. Further, specifies that this judgment for penalty, attorney fees, and costs may be rendered in the same judgment in which the injunction is made absolute. Authorizes the trial of the injunction to be a summary proceeding conducted by the judge without a jury.

Proposed law (R.S. 37:2422) modifies present law by adding a cease and desist provision that directs any person or entity engaged in any activity, conduct, or practice that constitutes a violation of any provision of this Act or board rule, other than a person holding a license as a health care provider from another La. licensing board, to cease and desist from such activity, conduct, or practice. Provides that the order will be issued in the name of the state of La., under the official seal of the board. Clarifies present law by specifying that if the person or entity does not cease and desist the prohibited activity, conduct, or practice within three business days from receipt of such cease and desist order, the board, may seek and cause to issue in any court of competent jurisdiction and venue a writ of injunction, including a temporary restraining order, enjoining any such person or entity from engaging in the proscribed activity, conduct, or practice.

Proposed law, relative to a person licensed as a health care provider by another La. licensing board, requires that notification of violations of state law or board rule be sent to the director of the board which issued the license to that person for review and response to the La. Physical Therapy Board from that licensing board.

Proposed law also, adds a provision authorizing the board to make a demand for reasonable attorney fees, associated investigative and administrative expenses, and the costs of court associated with litigating the injunction. Specifies that the judgment for attorney fees, expenses, and costs may be rendered in the same judgment in which the injunction is made absolute. Adds another provision that upon proof that a person or entity has engaged in any activity, conduct, or practice prohibited by present law or board rule, the court must issue a temporary restraining order enjoining the person or entity from engaging in such unlawful activity, conduct, or practice pending the hearing on a preliminary injunction, and, in due course, a permanent injunction will be issued after a hearing, commanding the cessation of the unlawful activity, conduct, or practice complained of, all without the necessity of the board having to give bond as ordinarily required in such cases. Specifies that a temporary

restraining order, preliminary injunction, or permanent injunction issued hereunder will not be subject to being released upon bond. Redesignates the provision that provides that the trial of the proceeding for injunction will be summary and by the judge without a jury.

Present law (R.S. 37:2419) provides that for the purposes of bills for services submitted to and compensation received from insurance carriers, an initial physical therapy evaluation as defined in present law shall be considered a physical therapy diagnosis and shall not constitute the practice of medicine.

Proposed law repeals this provision.

Present law (R.S. 37:2420) provides that other health care providers are not precluded from billing for or being reimbursed for the physical medicine procedures which they are licensed to perform which fall within their respective scope of practice.

Proposed law repeals this provision; however, it is reproduced without substantive change.

Present law (R.S. 37:2421) provides that other health care providers are not precluded from being reimbursed for therapy treatments or physical modalities which fall within their respective scope of practice. However, it also precludes other health care providers from professing the practice of physical therapy and from the use of the term "physical therapy" for advertisement purposes unless licensed under present law.

Proposed law repeals this provision; however, it is reproduced without substantive change.

Present law (R.S. 37:2422) provides that a physical therapist is not precluded from being reimbursed for therapy treatments or physical modalities which fall within their scope of practice. A physical therapist may not profess to provide "spinal manipulation" or "spinal adjustment" or use these terms for advertising purposes.

Proposed law repeals this provision; however, it is reproduced without substantive change.

Present law (R.S. 37:2418) provides that present law should not be construed as preventing or restricting the practice or activities of any person licensed in this state by any other law from engaging in the profession or occupation of which he is licensed.

Proposed law (R.S. 37:2423) redesignates and clarifies present law by specifying that it does not restrict a person licensed under any other law of this state from engaging in the profession or practice for which that person is licensed if that person does not represent, imply, or claim that he is a physical therapist or a provider of physical therapy.

Proposed law redesignates a provision in present law (R.S. 37:2410) that provides a person who is not licensed as a physical therapist or a physical therapist assistant in accordance with state law may be employed in a hospital, institution, clinic, physician's office, or athletic training room to administer treatment under the direction and supervision of a licensed physician. Also, redesignates a provision in present law (R.S. 37:2410) that provides that the treatment administered must not be identified as physical therapy, and further provides that such persons administering such treatment shall not hold themselves out nor be held out by others as physical therapists or physical therapist assistants.

Proposed law adds a provision that provides that no provision in proposed law precludes either physical therapists or other health care providers from billing for or being reimbursed for physical medicine procedures, therapy treatments, or physical modalities which they are licensed to perform and which fall within their respective scope of practice.

Proposed law adds a provision that prohibits physical therapists from professing to provide "spinal manipulation" or "spinal adjustment" or use these terms for advertising purposes. Specifies that this does not preclude other health care providers from professing the practice

of physical therapy and from the use of the terms "physical therapy", "P.T.", or "physiotherapy" for advertising purposes unless licensed under state law.

Present law (R.S. 37:2401.3) provides that all monies collected by the board pursuant to the fee provision must be deposited into the treasury of the board.

Proposed law repeals this provision; however, reproduces it without substantial change.

Present law (R.S. 37:2406) authorizes the board to set and collect fees. Requires the fees to be established by rule adopted in accordance with the Administrative Procedure Act, and will be limited to the fee schedule provided for in fee provision. Requires the payment of fees be made to the secretary-treasurer of the board. Allows the board to assess the following schedule of fees which shall not exceed the following amounts:

- | | | |
|-----|------------------------------|----------|
| (1) | Application fee | \$400.00 |
| (2) | Reinstatement fee | \$200.00 |
| (3) | Annual license renewal fee | \$200.00 |
| (4) | License verification fee | \$ 50.00 |
| (5) | Duplicate wall license fee | \$ 50.00 |
| (6) | Duplicate wallet license fee | \$ 50.00 |

Proposed law (R.S. 37:2424) modifies present law by consolidating the payment to the treasurer provision with the authorization for the establishment and collection of fees provision. Adds a new provision that all board expenses and compensation of board members and employees must be paid out of board funds only, and cannot be charged to the state. Also, provides that the financial records of the board shall be subject to an annual audit.

Effective Jan. 1, 2010.

(Amends and reenacts R.S. 36:259(E)(2), R.S. 37:2401-2424, and R.S. 44.4.1(B)(21))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. Specifies that one member of the La. Physical Therapy Board is a physical therapist assistant who possesses an unrestricted license to assist in the practice of physical therapy as a physical therapy assistant and who has been practicing in the state for no less than three years.
2. Deletes the physical therapy assisting language.
3. Excludes a person holding a license as a health care provider from another La. licensing board from cease and desist orders issued by the La. Physical Therapy Board.
4. Requires notification of violations of state law or board rule be sent to the director of the board which issued the license to that person for review and response to the La. Physical Therapy Board from that licensing board.

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill.

1. Corrects references to the organization of the executive branch and to public records exceptions and makes other technical corrections.

House Floor Amendments to the reengrossed bill.

1. Makes technical changes.
2. Specifies that words used in one gender apply also to the other, except as otherwise clearly indicated by the context.
3. Deletes "physiotherapy assistant" from the definition of "physical therapist assistant".
4. Redesignates a provision that provides a license issued pursuant to proposed law does not authorize the diagnosis of disease.